

TOWN OF HOPKINTON, NH PROPOSED ZONING AMENDMENTS

Planning Board
Public Hearing (Final): January 24, 2023
5:30 PM, Town Hall

Red text represents additions.
~~Strike through~~ represents omissions.



TOWN OF HOPKINTON
Planning/Building Department
330 Main Street, Hopkinton, New Hampshire 03229
Phone (603) 746-8243 Fax (603) 746-3049
www.hopkinton-nh.gov
E-mail: planzone@hopkinton-nh.gov

1. **Amend Table of Contents**, inserting references to new subsections 4.7 Buffer Standards for Nonresidential Uses and 20.2 Modifications.

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2. **Amend Section II Definitions (Entertainment) and (Entertainment, Place of)** by providing a clearer understanding of what entertainment is, including the fact that a place of entertainment can be a principal or accessory use. Specific places of entertainment have been omitted.

Entertainment: Any single event, a series of events, or ongoing activity or business, occurring alone or as part of another business, to which the public is invited or allowed to watch, listen, or participate or that is conducted for the purpose of holding the attention of, gaining the attention of or diverting or amusing guests or patrons, regardless of whether a charge or fee is levied. The following types of **Entertainment** activities are included **include but are not limited to:** Instrumental music; individual singer; singing group or band; dance; comedy; theatrical reading; speech; performance art; sporting event, or exhibition. The use of televisions, radio, or recorded music is exempt from this definition. Nothing in this definition shall be construed to permit adult entertainment of any kind, as defined in Section II and referenced in Section 3.9 IIIII, Table of Uses Establishment of Districts and Uses of this Ordinance.

Entertainment, place of: Any ~~hall, theater, bar, or restaurant~~ **place** which provides on-premises entertainment **as its principal use**, which may also include food and/or beverage service, except a Fair Use permitted in ~~the Section 3.8, Fair Overlay District (Overlay).~~ See also ~~Entertainment Table of Uses 3.6 and sub~~ **Section 3.7.8, Place of Entertainment.**

3. **Amend Section III Establishment of Districts and Uses, Table of Uses 3.6 as follows:**
 - (a) Table of Uses 3.6.E.3 (Hospitals, Clinics and...), changing the principal uses from prohibited to permitted in the Industrial (M1) and Village Industrial (VM1) districts. The amendment will make the uses consistent with what is currently permitted in the Commercial (B1) district.
 - (b) Table of Uses 3.6.F.9 (Drive-in Food Establishments), changing the principal use from prohibited to permitted in the Village Commercial (VB1) district. The purpose of the amendment is to permit what is currently taking place in Contoocook Village downtown, which is ordering and picking up food and beverages from restaurants. The amendment will make the use consistent with what is currently permitted in the Commercial (B1) district.
 - (c) Table of Uses 3.6.F.12 (Entertainment, Place of, Section II), changing the principal use from permitted by special exception to prohibited in the High-Density Residential (R1), Medium-Density Residential (R2), Low-Density Residential (R3), and Residential/Agricultural (R4) districts.

- (d) Table of Uses 3.6.G.7 (... , or Refuse Facility), changing the word "Facility" to "Facilities." The amendment is a housekeeping amendment changing a word from singular to plural, consistent with how other uses listed in 3.6.G.7 are written.
- (e) Table of Uses 3.6.H.5 (Accessory Dwelling Unit), changing the accessory use from prohibited to permitted in the Commercial (B1) district. The amendment will make the use consistent with what is currently permitted in all other districts.
- (f) Table of Uses 3.6.H.11 (Commercial Entertainment), omitting the word "Commercial." The use will remain as an accessory use permitted in all districts.
- (g) Table of Uses 3.6.H.15 (Home Business), changing the accessory use from permitted by special exception to permitted in the Commercial (B1) and Industrial (M1) districts. The amendment will make the use consistent with what is currently permitted in the Village Commercial (VB1) and Village Industrial (VM1) districts.
- (h) Table of Uses 3.6.H.24 (Temporary Housing), eliminating unnecessary wording. The intent will remain the same, and the use will continue to be permitted in all districts.
- (i) Add an index of the zoning districts at the end of 3.6 Table of Uses. The index will explain the abbreviations of the various districts

3.6 TABLE OF USES	R-4	R-3	R-2	R-1	B-1	M-1	VR-1	VB-1	VM-1
G. Institutional Uses/Community Facilities – Principal Uses									
3. Hospitals, Clinics and Nursing Homes, Convalescent Homes and Rehabilitation Centers	X	X	S	S	P	XP	S	P	XP
F. Commercial Uses – Principal Uses									
9. Drive-in Food Establishments.	X	X	X	X	P	P	X	XP	X
12. Entertainment, Place of, Section III	SX	SX	SX	SX	S	S	S	S	S
G. Industrial Uses – Principal Uses									
7. Junk Yards, Recycling Centers, or Refuse Facility Facilities	X	X	X	X	X	X	X	X	X
H. Accessory Uses									
5. Accessory Dwelling Unit, Section III	P	P	P	P	XP	P	P	P	P
11. Commercial Entertainment subject to the limitations in other Sections of this Ordinance, including but not limited to definitions, lighting, and noise.	P	P	P	P	P	P	P	P	P
24. Temporary Housing as a result of an emergency situation provided a permit is secured from the Board of Selectmen under conditions they may prescribe.	P	P	P	P	P	P	P	P	P

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Residential/Agricultural (R-4), Low-Density Residential (R-3), Medium-Density Residential (R-2), High-Density Residential (R-1), Commercial (B-1), Industrial (M-1), Village High-Density Residential (VR-1), Village Commercial (VB-1), Village Industrial (VM-1)

4. Amend Section III Establishment of Districts and Uses, Table of Uses 3.6.E.3 (Places of Worship...), by changing the principal use from permitted by special exception to permitted in the Industrial (M1), Village Industrial (VM1), and Village High-Density Residential (VR1) districts. Once amended, the use will be permitted in all districts. The amendment results from a new law, RSA 674:76, relative to local governments regulating properties primarily for religious purposes. The use will continue to require site plan approval by the Planning Board.

3.6 TABLE OF USES	R-4	R-3	R-2	R-1	B-1	M-1	VR-1	VB-1	VM-1
E. Institutional Uses/Community Facilities – Principal Uses									
6. Place of Worship including customary ancillary religious facilities	P	P	P	P	P	XP	SP	P	XP

5. Amend Section IV Dimensional and Density Requirements, 4.2 Table of Dimensional Requirements as follows:

- Move sentence referencing Explanatory Notes in 4.3 from after to before 4.2 Table of Dimensional Requirements. This is a formatting change.
- Change the alphabetical sequence of the footnotes to reflect the proposed amendments in 4.3 Explanatory Notes.
- Insert an index of the zoning districts at the end of 4.2 Table of Dimensional Requirements. The index will explain the abbreviations of the various districts.

4.2 TABLE OF DIMENSIONAL REQUIREMENTS The TABLE OF DIMENSIONAL REQUIREMENTS shall apply for all lots, uses of land, and developments within the various districts, except for subdivisions of land for residential uses subject to the provisions specified in Section VIII, unless modified by other Sections of this Ordinance. [See Explanatory Notes in Section 4.3 for footnoted items.](#)

TABLE OF DIMENSIONAL REQUIREMENTS									
Districts	Minimum Lot Dimensions ^a			Minimum Setback Dimensions ^a (ft) (ft)			Max. Height of Structure	Max. % Bldg.	Min. % Open
	Width	Depth	Continuous Frontage ^h	Front	Side	Rear			
R-4 ^b	120,000 ^d	300	200	60	30	60	35	20	70
R-3 ^b	80,000 ^d	250	140	40	20	40	35	30	30
R-2 ^b	60,000 ^e	160	120	30	15	40	35	30	30
R-1 ^b (other than residential)	15,000 ^a	100	100	25	15	40	35	30	50
B-1 ^{c,k}	15,000 ^f	80	80	30	15	40	35	40	30
M-1 ^{c,k}	110,000 ^g	250	300	50	40 ^h	50	45	40	30
VR-1 ^c	15,000 ^h	80	80	30	15	40	35	40	30
VB-1 ^{c,k}	7,500 ^g	50	100	0	10	10	35	60	20
VM-1 ^{c,k}	55,000 ^g	150	200	25	25	25	35	50	30

Residential/Agricultural (R-4), Low-Density Residential (R-3), Medium-Density Residential (R-2), High-Density Residential (R-1), Commercial (B-1), Industrial (M-1), Village High-Density Residential (VR-1), Village Commercial (VB-1), Village Industrial (VM-1)

[See Explanatory Notes in Section 4.3 for footnoted items.](#)

6. Amend Section IV Dimensional and Density Requirements, 4.3 Explanatory Notes as follows:

- In 4.3(c), omit reference to the greater setback required when a commercial or industrial use abuts residential uses or a residential district. Instead, add language that requires the applicant to comply with the new section 5.7 Buffer Standards for Nonresidential Uses.
- Omit 4.3(i), and instead create a new 4.3(g) that specifies the minimum square footage required for the district plus the additional square footage required for each additional dwelling unit. As a result, the alphabetical sequence of 4.3 will change. The amendment is intended to make the footnote format consistent with that shown in (d) through (f). There is no change to the square footage currently required for dwelling units.

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4.3 EXPLANATORY NOTES The following explanatory notes shall provide further definitions for the footnoted items in Table 4.2.

- (a) All measurements are in feet unless otherwise noted.
- (b) These dimensions shall not apply to Conservation Subdivisions. See Section VIII, Conservation Subdivisions, for applicable dimensional requirements.
- (c) When the footnoted commercial or industrial uses abuts residential uses or a residential district, ~~the minimum front and rear setbacks shall be 100 feet from, and the side setback shall be 50 feet from a property line abutting a residential use or district~~ the applicant must demonstrate compliance with the requirements of subsection 4.7, Buffer Standards for Nonresidential Uses, a minimum of thirty (30) feet of buffer shall be provided, consisting of either vegetive screening and/or fencing, as deemed appropriate by the Planning Board during Site Plan Review.
- (d) 80,000 sq. ft. + 16,000 sq. ft. for each dwelling unit more than one on a lot.
- (e) 60,000 sq. ft. + 8,000 sq. ft. for each dwelling unit more than one on a lot.
- (f) 15,000 sq. ft. + 2,000 sq. ft. for each dwelling unit more than one on a lot.
- (g) 7,500 sq. ft. + 2,000 sq. ft. each dwelling unit more than one on a lot.
- ~~(gh)~~ The minimum lot width at the front yard setback line shall not be less than 85 percent of the minimum lot frontage required for the district. The frontage on a road at a cul-de-sac may be less than specified if the lot width at the depth of the front yard setback line meets the minimum lot frontage requirements, but in no event less than 30 feet.
- ~~(hi)~~ For residential use only in the M-1 ~~zone~~ district the sideline setback shall be 30 feet.
- ~~(i)~~ The required square footage of land area for the first dwelling unit shall be equal to the minimum lot area as defined in the Table of Dimensional Requirements. For each additional dwelling unit, an additional 2,000 square feet of land area shall be required.
- ~~(j)~~ When the footnoted commercial or industrial uses abut residential uses or a residential district or are situated in a residential area, the minimum front setback shall be 25 feet and the minimum side setback shall be 25 feet from a property line abutting a residential use or district. a minimum of thirty (30) feet of buffer shall be provided, consisting of either vegetive screening and/or fencing, as deemed appropriate by the Planning Board during Site Plan Review.
- ~~(ki)~~ - In the B-1 and M-1 ~~zones~~ districts, the maximum gross floor area of commercial retail stores and restaurants shall not exceed 40,000 square feet.
- ~~(lk)~~ In the VB-1 and VM-1 ~~zones~~ districts, the maximum gross floor area of commercial retail stores and restaurants shall not exceed 20,000 square feet.

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7. Amend Section IV Dimensional and Density Requirements, 4.4.3 Principal Structure as follows:

- (a) Correct cross-reference to Section VIII Conservation Subdivision.
- (b) Insert cross-reference to Section XIX Commerce and Community Overlay District.
- (c) Omit sentences referencing maximum gross floor area for commercial retail stores and restaurants in the Commercial (B1) and Industrial (M1) districts as the same language exists in new 4.3(j).

4.4.3 Principal Structure: Except for municipal facilities and public utilities, only one principal structure/principal use shall be permitted on a lot, except as noted in ~~8.6.5 Section VIII Conservation Subdivisions, Section XIX Commerce and Community Overlay District, and in this section, Section VIII, Conservation Subdivisions.~~

In the B-1 and M-1 zones ~~districts~~, there may be multiple principal non-residential structures and ~~or~~ uses within structures so long as each use is listed as a permitted (P) use or use permitted by special exception (S) in 3.6 TABLE OF USES. ~~In the B-1 and M-1 zones districts, the maximum gross floor area of commercial retail stores and restaurants shall not exceed 40,000 square feet. In the VB-1 and VM-1 zones districts, the maximum gross floor area of commercial retail stores and restaurants shall not exceed 20,000 square feet.~~ In the VB-1 and VM-1 zones, there may be multiple principal structures and uses within structures so long as each use is listed as a permitted (P) use or use permitted by special exception (S) in 3.6 TABLE OF USES. Nothing herein shall be construed to preclude compliance with the requirements set forth in Section 15.8.2, Special Exceptions, of this Ordinance.

- 8. Amend Section IV Dimensional and Density Requirements**, by inserting a new subsection 4.7 entitled Buffer Standards for Nonresidential Uses. The buffer will replace the greater setback required when a commercial or industrial use or building abuts a residential use or district.

4.7 BUFFER STANDARDS FOR NONRESIDENTIAL USES ~~These buffer requirements are intended to mitigate the impacts of light, noise, odor, vibration, and visual blight of non-residential development on adjacent residential districts and uses. The buffer is intended to be landscaped in order to provide an effective visual screening on a year-round basis for uses in residential districts at a boundary with a non-residential use or district. Buffers shall employ existing vegetation, nursery stock, fences, walls, earth berms, or grade changes to create a dense or opaque screen immediately adjacent to the boundary.~~

- (a) ~~Non-residential uses on lots that directly abut a residential use or district or are located on lots through which a residential district boundary passes shall provide a buffer on the premises in accordance with the standards in the following table.~~

Buffer Standards for Non-residential Structures and Uses		
	Minimum buffer width for a structure up to 20 ft. in height or use with no structure	Minimum buffer width for a structure of more than 20 ft. in height
M-1	20	30
B-1	20	30
VM-1	15	20
VR-1	15	20
R-1		

~~Village High-Density Residential (VR-1), High-Density Residential (R-1), Commercial (B-1), Industrial (M-1), Village Industrial (VM-1)~~

- (b) ~~A lot transected by a zoning boundary in which the owner exercises the option available under Section 3.4.6, to extend the district regulations applicable to the larger portion of the lot into the smaller portion shall cause the buffer to be located immediately adjacent to the line, which is at the limit of the regulations as extended.~~
- (c) ~~Where lots abutting a residential use or residential district have been previously developed, the requirements of this section shall be implemented at such time as a change in use occurs or an existing use is expanded in such a manner that there is an increase in demand, including but not limited, size, parking, access, and circulation.~~

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(d) Buildings, impervious surfaces, and parking, as well as the storage and display of vehicles, goods, and materials, are prohibited within the buffers.

(e) The Planning Board may grant a conditional use permit for alternative buffer arrangements where specific requirements of this section cannot be met, as follows.

(1) Where the location of existing buildings precludes compliance with the buffer width standards, the Planning Board may allow a buffer that provides the maximum separation and screening possible. In granting a conditional use permit, the Board may require the buffer to be wider where not obstructed by buildings, require additional fencing or walls, or require additional or larger landscape materials.

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9. Amend Section XIX Commerce and Community Overlay District (CCOD), 19.1 District Created and Authority, 19.4 District Boundary, 19.5 Permitted Uses, and 19.6 Dimensional and Density. The amendment will include the date the Ordinance is amended, identifying the properties in the CCOD, and clarifying that the uses permitted by right and by special exception in the underlying district shall be permitted singularly or in combination. It will correct the Minimum Development Parcel Size, and the Base Figure used to determine the number of dwelling units. It will eliminate the Overall Size of development required and allow the reformatting of paragraphs where needed.

19.1 DISTRICT CREATED AND AUTHORITY There is hereby created an overlay zoning district, which shall be known as the "Commerce and Community Overlay District" (CCOD). The CCOD was created by the Town of Hopkinton on March 10, 2020, and amended on March 14, 2023, under the authority of the provisions of NH RSAs 674:16 and 674:21, Innovative Land Use Controls.

19.4 DISTRICT BOUNDARY The property contained in the CCOD is located along Route 427 and Routes 202/9. The location and boundaries of the Commerce and Community Overlay District are hereby established as delineated and shown on a map titled "Zoning Map of Town of Hopkinton, New Hampshire 2022, and as afterward amended." The district includes lots identified as follows:

- (a) Tax Map 210, Lots 3.
- (b) Tax Map 211, Lots 7, 8, 9, and 9.01.

19.5 PERMITTED USES All uses permitted in the CCOD shall be those uses permitted by right or by special exception in the underlying district as specified in Section 3.6, Use Regulations (Table of Uses). The uses shall be permitted singularly or in combination.

In addition to the underlying permitted uses, the following uses may also be permitted.

- (a) Multi-family dwellings with a maximum of twenty-four (24) dwelling units per building.
- (b) Two-family dwelling units with no more than two (2) bedrooms per dwelling unit as part of a planned unit development.
- (c) Buildings containing between eight (8) and twenty-four (24) attached dwelling units shall not be required to provide direct access to the ground or have some living area at ground level.
- (d) Uses that are permitted by right or by special exception in the Table of Uses under Commercial Uses for the underlying zoning district.

19.6 DIMENSIONAL AND DENSITY The underlying dimensional and density requirements outlined in Table 4.2 shall not apply to the development parcels located within the boundaries of the CCOD. Dimensional and density requirements shall instead be regulated by the following:

- (a) Development Parcel Definition. A parcel within the Commerce and Community District upon which a development proposal may be proposed and developed in accordance with this section.
- (b) Minimum Development Parcel Size. The minimum development parcel gross area shall be 3 acres (130,680 square feet) for residential use; 1 acre (43,560 square feet) for non-residential uses.
- (c) Overall Size. ~~The development parcel shall be of a minimum size to accommodate a minimum of nine (9) dwellings units subject to (d) and (e) below. The purpose of this restriction is to provide enough dwellings in a development to lend support to accompanying small-scale retail and to allow the town to better plan for and provide the increase in local services that accompanies population growth within a town, and to make a development financially feasible to undertake and construct by private developers.~~
- (d) Base Figure. The base figure to determine the number of dwelling units permitted on a development parcel shall be based on a density of ~~three (3)~~ **eight (8)** dwelling units per developable acre.
- (de) Development Parcel Lot Coverage. The entire density permitted for a single development parcel within the CCOD must be located in seventy (70%) percent or less of the entire parcel available for development. The density may vary depending on soil conditions, suitability of on-site locations for septic systems and community water systems, wetlands, topography, and other features of the land. In no case shall the average density be lower than that of a conventional subdivision.
- (e) Buildings may be located on individual lots or on common lots with more than one building on a lot, or a combination thereof. If more than one dwelling unit will be located on a lot, the ownership and management arrangements for that lot and the units thereon shall be detailed as part of the application, and those arrangements shall be submitted for approval by the Planning Board.
 - (1) Lots and/or building envelopes shall be shown on the subdivision plan and shall be submitted for Planning Board approval.
 - (2) Building height shall not exceed 50 feet.
 - (3) Applicants are encouraged to vary lot sizes, lot dimensions, and the location of building envelopes and structures from the access road and from lot to lot within the development to retain natural vegetation, provide increased privacy for residents, and to increase the visual variety provided by the arrangement of buildings within the development.
 - (4) Lots may be irregular in shape, provided they conform to the natural topography and features of the parcel (e.g., the lot lines follow an existing stone wall, stream, or other natural dividing feature).
- (f) Incentives for Density Bonuses. Applicants under this Section who provide the Town with certain amenities, such as but not limited to, trails and trail connections, ballfields, playgrounds, fitness centers, meeting rooms and social spaces, and active or passive

recreation areas, in the proposed development, may receive a density bonus beyond what is permitted by the base figure calculation. The Planning Board will consider permitting a density bonus based on suitable site conditions. A density bonus may be permitted as indicated below:

- (1) Where the development parcel incorporates, senior housing established and maintained in compliance with HUD/NHHFA guidelines up to a 25% increase in unit count.
- (2) Where the development parcel incorporates affordable housing in compliance with HUD/NHHFA up to a 25% increase in unit count.
- (3) Where 40% or more of the development parcel is set aside for Designated Open Space up to a 15% increase in unit count.
- (4) Where the proposed development includes a combination of senior or affordable dwelling units and a minimum of 40% Designated Open Space (area of parcel permanently protected from future development), up to a 30% increase in unit count.

10. Amend Section XX Amendments by retitling the section "Amendments and Modifications" and adding a provision that allows the Planning Board to assign and modify the numbering and lettering of sections, provided the change has no substantive effect on the provisions.

SECTION XX AMENDMENTS AND MODIFICATIONS

20.1 PROCEDURE The provisions of this Ordinance may be amended or changed at any regular or special Town Meeting by a majority of the voters present as provided by the Revised Statutes Annotated of the State of New Hampshire.

20.2 MODIFICATIONS The Planning Board may assign or modify the numbering of sections within this Ordinance, provided that such assignment or modification has no substantive effect upon any provision herein.